IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

MACA.No. 592 of 2004

OPMV.790/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
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APPELLANT/PETITIONER
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1. MARIAKUTTY SEBASTIAN, MOTHER OF
   LATE REJI SEBASTIAN RESIDING AT NADACKAL,
   NALPATHIMALA, ATHIRAMPUZHA, ETTUMANOOR, KOTTAYAM.
2. BEENA SEBASTIAN, SISTER OF
   LATE REJI SEBASTIAN RESIDING AT NADACKAL,
   NALPATHIMALA, ATHIRAMPUZHA, ETTUMANOOR,
   KOTTAYAM.

BY ADV. SRI.SABU GEORGE

RESPONDENTS: RESPONDENTS
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1. S.M.K.MURUGAN S/O. KARUPPAIAH,
   21, KULA NAGATEHI RAMANANDAPURAM DISTRICT,
   TAMILNADU.
2. A.KAMAKSHI S/O. ANJUMUTHU
   DOOR NO.9, RAMESWARAM RAOD, NEAR UCHAPPULLI
   POLICE STATION, RAMANADAPURAM DISTRICT,
   TAMILNADU (DELETED)
   (R2 IS DELETED FROM THE PARTY ARRAY AS PER ORDER
   DATED 3.3.2006 IN I.A. 470/06)
3. THE NATIONAL INSURANCE CO.LTD.,
   MADURA BRANCH.

R3 BY ADV. SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & A.K. BASHEER, JJ.

M.A.C.A. No 592 of 2004

Dated: 10th October 2007

JUDGMENT

Radhakrishnan, J.

Claimants are the appellants. First petitioner is the mother and the second petitioner is the sister of the deceased. Deceased was aged 23 years and was working as Sales Executive in a private institution at the time of accident. According to the claimants, deceased was getting a sum of Rs 3,500/- per month. Tribunal however notionally fixed the monthly income as Rs 1,600/- and taking into consideration the age of the mother, multiplier of 13 was adopted and a total compensation of Rs 1,66,400/- was awarded towards loss of dependency. Considering the facts and circumstances of the case, we are of the view that the income fixed by the Tribunal is on the lower side. In our view, fixing monthly income at Rs 2,000/- would meet the ends of justice. Thus, compensation towards loss of dependency would come to Rs 2,08,000/-. Towards loss of affection a sum of Rs 10,000/- was awarded. Considering the facts and circumstances of the case and the fact that sister is 25 years of age and the mother is also comparatively

young, we are inclined to award an additional amount of Rs 5,000/- under that head. In such circumstances, the appeal is disposed of modifying the award passed by the Tribunal and holding that the claimants are entitled to Rs 2,08,000/- as compensation towards loss of dependency instead of Rs 1,66,400/- and an additional sum of Rs 5,000/- for pain and suffering. The enhanced amount will carry interest at the rate of 7.5% per annum from the date of petition till realisation.

Sd/-
K.S. RADHAKRISHNAN
Judge

Sd/-
A.K. BASHEER
Judge

10/10/2007
en

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